

THE HON'BLE SRI BILAL NAZKI, THE ACTING CHIEF JUSTICE

And

THE HON'BLE SRI JUSTICE R.SUBHASH REDDY

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WRIT APPEAL No. 2139 OF 2005

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21-11-2005

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Between:

M/s.Hastallory India Limited, Visakhapatnam, rep. by
its Managing Director.

.....APPELLANT

And

Andhra Pradesh Industrial Infrastructure Corporation Limited & Another.

.....RESPONDENTS

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WRIT APPEAL No. 2139 OF 2005

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JUDGMENT : (Per Hon'ble Sri Bilal Nazki, ACJ)

Heard learned counsel for the parties. With their consent, the writ appeal is being disposed of at this stage.

The writ petition was filed by the writ appellant, challenging the order dated 05.01.2004, passed by the respondents in the writ petition. It appears that the petitioner was allotted a piece of land in an industrial area, measuring 8612 square yards, at a cost of Rs.10/- per square yard, in the year 1982. The writ petitioner, admittedly, has not used the land for the purpose for which it was allotted. According to the respondents, the writ petitioner had even not made the payment in full. There was some correspondence between the petitioner and respondents and petitioner had maintained at one stage that he was unable to utilize the land, as the erstwhile landlord was creating hurdles for him. Thereafter, he made an application to the respondents, asking them to refund the amount he had already paid, as he had not been utilize the land because of the resistance of the original landlord. The respondents, while acknowledging his letter, cancelled the allotment itself and in the letter dated 05.01.2004, petitioner was also informed that by an earlier communication, he had been informed that he was not entitled to any reimbursement and also any reimbursement of interest on the consideration already paid.

The order impugned shows that the allotment was cancelled only on the ground that the petitioner had not paid the balance amount and had also demanded repayment of the money already paid by him. Whether this would entitle the respondents to cancel the allotment or not, was a question which should have been decided by the respondents after giving a proper show cause notice to the petitioner. Since the order has been passed without giving any show cause notice, therefore, on this ground alone, we allow the writ appeal, set aside the order of learned Single Judge and also set aside the order dated 05.01.2004, with liberty to the respondents to initiate appropriate action in accordance with law and in case they

want to cancel the allotment, they may do so after giving a chance of being heard, to the writ petitioner. By disposing of this writ appeal with this order, we make it clear that we are not expressing any opinion about the merits of the matter. No order as to costs.

(BILAL NAZKI, ACJ)

21st November 2005

(R.SUBHASH REDDY, J)

ajr